

OFFICIAL FILE

ILLINOIS COMMERCE COMMISSION

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

ORIGINAL

Joint Petition for Arbitration Pursuant to)
Condition 29 of the SBC/Ameritech)
Merger Regarding Operation Support)
Systems and Ameritech's Plan of)
Record)

Docket No. 00-0592

ILLINOIS COMMERCE COMMISSION STAFF'S
RESPONSE TO PARTIAL SETTLEMENT
OF ISSUES

The Staff of the Illinois Commerce Commission (the "Staff") states, in response to the Notice of partial settlement of issues filed on January 8, 2001 (for Issues 10, 13, 42 and 62), and to the Notice of partial settlement of issues filed on January 9, 2001 (for Issues 18, 46 and 47) by AT&T Communications of Illinois, Inc., WorldCom, Inc., CoreComm Illinois, Inc., Birch Telecom of the Great Lakes, Inc., Covad Communications Company, McLeodUSA Telecommunications Services, Inc., Nextlink Illinois, Inc. d/b/a/ XO Illinois, Inc., Rhythms Links, Inc., and Sprint Communications Company L.P. (collectively, the "CLECs") and Ameritech Illinois ("Ameritech"), in the above-captioned matter, the following:

I. Procedural History.

This proceeding is a joint submission for arbitration brought to the Illinois Commerce Commission (the "Commission") pursuant to Condition 29 of the order dated September 23, 1999 (the "Merger Order") in Docket 98-0555 approving the merger of SBC Communications, Inc. and Ameritech. Condition 29 of the Merger Order established a three phase process for deployment of application-to-application interfaces regarding the integration of Operation Support Systems ("OSS" or "OSS

systems”) available to CLECs in Illinois. Pursuant to Phase 1, Ameritech presented to the CLECs and the Commission a Plan of Record (the “Plan of Record”) which provided, among other things, Ameritech’s overall assessment of their existing OSS interfaces, business processes and rules, and plans for development and deployment of interfaces for OSS and integration of OSS processes. The Plan of Record was approved by the Commission on April 4, 2000. Pursuant to Phase 2, the parties participated in a series of collaborative workshops, conducted by the Staff of the Commission, with the goal of obtaining written agreement between the CLECs and Ameritech on OSS interfaces, enhancements, and business requirements identified in the Plan of Record. To the extent that the parties were unable to come to written agreement on all issues, Phase 2 also provided a process whereby the unresolved issues could be brought to the Commission for arbitration. On September 5, 2000, Ameritech and the participating CLECs filed a “Joint Submission of the Amended Plan of Record for Operations Support Systems,” submitting to the Commission for Phase 2 arbitration twenty disputed issues, as well as submitting an Amended Plan of Record as the parties’ written agreement to date with respect to OSS. Pursuant to this Phase 2 arbitration process, Ameritech, the CLECs and Staff have provided written comments, participated in evidentiary hearings, briefed the issues and responded to the Hearing Examiner’s proposed order.

At a subsequent status conference held via telephone, Ameritech and the CLECs indicated their expectation that they would be reaching agreement on the following issues: Issue 10, Contract Language, Issue 13, Relaxed Address Validation, Issue 18: Flow Through, Issue 42, Provider Initiated Transactions, Issue 46:

Coordinated Hot Cuts, Issue 47: Desired Frame Due Time, and Issue 62: Directory Listing Ordering and Inquiry (collectively, the "Proposed Settled Issues"). In response to such expectation, the Hearing Examiner in this proceeding presented to the Commission on December 19, 1999 for the Commission's review an interim post-exceptions proposed order (the "Interim PEPO") which addressed all of the arbitrated issues except for the Proposed Settled Issues. The Proposed Settled Issues were to be addressed in a subsequent post-exceptions proposed order, if necessary, to the extent the same were not resolved by the parties.

Since that time, Ameritech and the CLECs submitted a Notice of partial settlement on December 20, 2000, regarding Issues 10, 13, 18, 42, 46, 47 and 62. Staff submitted a Response to that Notice on December 28, 2000. The matters addressed in both documents were discussed at a January 2, 2001 conference convened by the Hearing Examiners. At that conference, it was determined that modifications to the LECs December 20 Notice would be considered.

After additional discussions between the parties, it became clear that language for certain issues could be more readily resolved than for others. Therefore, at the suggestion of the Hearing Examiners, the LECs began to consider separate filings for Issues 10, 13, 42 and 62, as a group, and 18, 46 and 47 as a group. An agreed Notice regarding settlement of the former Issues was filed on January 8, 2001. This Notice was superceded by a Corrected Notice that was filed later in the day on January 8, 2001.

The separate agreement regarding Issues 18, 46 and 47 was filed by the LECs on January 9, 2001. On January 10, 2001, the Hearing Examiners provided the parties

with proposed amendments to the proposed settlement language for Issues 18, 46 and 47. The Examiners requested responses "as soon as possible, preferably by the end of the day" (meaning January 10). On January 11, it was indicated to the Examiners that the proposed amendments were acceptable.

On January 10, 2001, the Hearing Examiners also issued three questions via e-mail regarding the settlement language for Issue 18. The LECs were directed to "e-mail a joint response to the Hearing Examiners by noon on January 11, 2001." The parties were able to fully respond to the inquiries by approximately 3:30 on January 11. (It is not apparent that these exchanges that were made via e-mail are part of the record. Staff submits that, at least the Examiner's three questions and the LECs' responses thereto should be incorporated into the record. In any case, they are attached to this Response.)

Staff's Response necessarily awaited the completion of this process. After reviewing all of the foregoing filings and e-mail exchanges, Staff finds that it still has the same two basic comments that it submitted in its December 28, 2000 Response to the initial take of the settlement efforts: the reporting components of the agreements is unclear, and although the agreements state a belief that the procedures contemplated therein are within the scope of Condition 29, Staff believes they provide for remedies not contemplated by the Commission.

II. Reporting Requirements

Paragraph 2 of the language for Issue 13 requires Ameritech to submit a plan for the synchronization of its CSR and SAG databases, and to "provide a report to the Commission on May 1, 2001." Paragraph 7 of the Examiners' version of the agreement

language for Issue 18 (Paragraph 6 in the LECs' proposal) requires Ameritech to file quarterly reports with the Commission, beginning September 10, 2001.

To the extent that Staff has advocated reporting requirements concerning progress on these two issues, Staff is pleased to see the parties agree that reports will be made. However, it is unclear whether the agreements contemplate the reporting requirements as clarified by Staff in its Brief on Exceptions to the Hearing Examiner's Proposed Order. There Staff stated that the overriding need for public confidence in the expeditious development of operations support services that promote local exchange competition in AI's service area, and the need for Staff and CLECs to have unfettered access to information related to AI's efforts in this regard, warrant the Commission requirement (which the HEPO correctly imposes as to Issue 1) that an AI officer verify all reports it is required to file. The same considerations further warrant, however, that all such reports be filed with the Chief Clerk of the Commission, in a form suitable for posting to the Commission's web page. Staff also recommends that the Order specify that such reports will be public records available for inspection and copying. (Staff's Brief on Exceptions, at page 35 (Issue 13) and 40 (Issue 18))

Staff maintains that the reporting requirements agreed to by the parties for Issues 13 and 18 be subject to these criteria.

III. Remedies

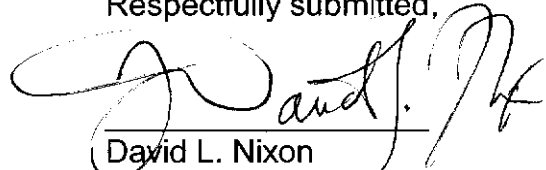
In its December 28, 2000, Response to the settlement as it was then proposed, Staff was critical of the LECs position that procedures and remedies proposed for Issue 18 was within the contemplation of the Commission's Condition 29. (Staff Response, pages 4 - 7) The parties provided an "Addendum" to the proposed settlement to

address this concern. In that Addendum – both as proposed by the LECs and by the Examiners in their suggested rewrite – it is suggested that the Remedies “may or may not have been contemplated under Condition 29 of the Merger Order.”

Staff still disputes that the procedures and the additional timeframes proposed by the party were contemplated by the Commission. Condition 29 sets out clear procedures and time frames. The new proposals may be parallel to, and consistent with, those procedures and timing requirements, but they are clearly other than and in addition to those requirements, and, thus, were not within the scope of Condition 29. The proposed settlement should not be presented as being within the contemplation of Condition 29.

However, having said that, Staff believes the proposed procedures are certainly consistent with the Commission's purposes for imposing the requirements and remedies of Condition 29. Staff also does not dispute the apparent need for the additional procedures and remedies. Thus, Staff does not oppose the adoption of the settlement language of Issue 18, provided that they are adopted as procedures and remedies in addition to those set forth in Condition 29.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "David L. Nixon", is written over a horizontal line.

David L. Nixon
Nora A. Naughton
Thomas G. Aridas
Counsel for the Staff of the
Illinois Commerce Commission

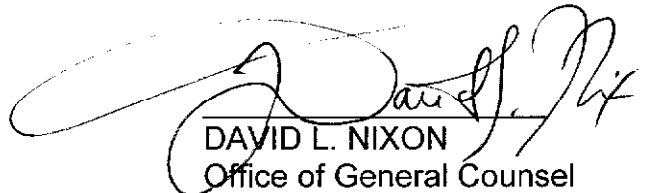
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NOTICE OF FILING

PLEASE TAKE NOTICE that we have on this 12TH day of January, 2001, filed with the Chief Clerk of the Illinois Commerce Commission, 527 East Capitol Avenue, Springfield, Illinois, the Illinois Commerce Commission Staff's Response to Partial Settlement of Issues, a copy of which is hereby served upon you.

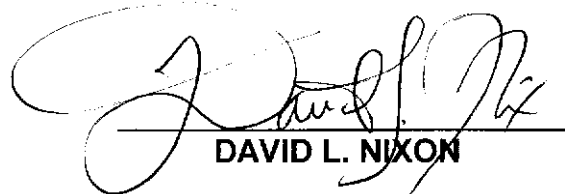


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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies of the above Notice, together with copies of the document referred to therein, have been served upon the parties to whom the Notice is directed by first-class mail, proper postage prepaid, from Chicago, Illinois, or by e-mail on this 12th day of January, 2001.



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DLN/sr

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